

BILL NO. S-77-01-20

SPECIAL ORDINANCE NO. S-24-77

AN ORDINANCE approving a contract with Continental Construction Company, Inc., for Resolution No. 5726-1976: Alley.

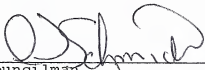
BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That the contract dated December 16, 1976, between the City of Fort Wayne, by and through its Mayor and the Board of Public Works and Continental Construction Company, Inc., for:

Resolution No. 5726-1976: Alley: Between Emerson Avenue and Spring Street from the East property line of Steup Avenue to the West property line of Tyler Avenue,

for a total cost of \$10,150.95, of which the City will pay 25% or \$2,537.74 and the balance paid by the property owners under Barrett Law, all as more particularly set forth in said Contract which is on file in the Office of the Board of Public Works and is by reference incorporated herein, made a part hereof and is hereby in all things ratified, confirmed and approved.

SECTION 2. This Ordinance shall be in full force and effect from and after its passage and approval by the Mayor.


Councilman

APPROVED AS TO FORM
AND LEGALITY.


CITY ATTORNEY

Read the first time in full and on motion by Moses, seconded by Hinga, and duly adopted, read the second time by title and referred to the Committee on Public Works (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on _____, the day of _____, 1976, at _____ o'clock P.M., E.S.T.

DATE: 1-11-77

Charles W. Westerman
CITY CLERK

Read the third time in full and on motion by Moses, seconded by Hinga, and duly adopted, placed on its passage.
PASSED (LOST) by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT	TO-WIT:
TOTAL VOTES	<u>9</u>				
BURNS	<u>✓</u>				
HINGA	<u>✓</u>				
HUNTER	<u>✓</u>				
MOSES	<u>✓</u>				
NUCKOLS	<u>✓</u>				
SCHMIDT, D.	<u>✓</u>				
SCHMIDT, V.	<u>✓</u>				
STIER	<u>✓</u>				
TALARICO	<u>✓</u>				

DATE: 1-25-77

Charles W. Westerman
CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ZONING MAP) (GENERAL) (ANNEXATION) (SPECIAL) (APPROPRIATION)

ORDINANCE (RESOLUTION) No. 8-24-77 on the 25th day of Jan, 1976.
ATTEST: (SEAL)

Charles W. Westerman
CITY CLERK

John Nuckols
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 26th day of January, 1976, at the hour of 11:00 o'clock A M., E.S.T.

Charles W. Westerman
CITY CLERK

Approved and signed by me this 28th day of January, 1976, at the hour of 11:00 o'clock a. M., E.S.T.

Ralph Shumstrong
MAYOR

Bill No. S-77-01-20

REPORT OF THE COMMITTEE ON PUBLIC WORKS

We, your Committee on PUBLIC WORKS to whom was referred an Ordinance
approving a contract with Continental Construction Company, Inc., for
Resolution No. 5726-1976: Alley

have had said Ordinance under consideration and beg leave to report back to the Common
Council that said Ordinance 2 PASS.

WINFIELD C. MOSES, JR. - CHAIRMAN

DONALD J. SCHMIDT

VIVIAN G. SCHMIDT

PAUL M. BURNS

SAMUEL TALARICO

W. J. Schmidt
Paul M. Burns
Samuel J. Talarico

DATE 1-25-77 CONCURRED IN
CHARLES W. WESTERMAN, CITY CLERK

PROJECT

ALLEY BETWEEN EMERSON AVE. & SPRING ST. FROM E.P.L. STEUP AVE. TO W.P.L. OF TYLER AVE.

BID ANALYSIS SHEET

OFFICE OF CITY ENGINEER

DATE

October 13, 1976

RES. NO.

5726 - 1976

MATERIAL PLAIN CONCRETE PUNT.

FORT WAYNE INDIANA

CONTRACTORS

STREETS — ALLEYS — SIDEWALKS
QUAN UNIT MATERIAL

ESTIMATE

EXTENSION

BROOKS CONST. CO.

CONTINENTAL CONST. CO.

UNIT
BIDTOTAL
BIDUNIT
BIDTOTAL
BIDUNIT
BIDTOTAL
BIDUNIT
BIDTOTAL
BID

49 C.Y. Common Excavation

5.00

745.00

4.00

596.00

5.00

745.00

40 S.Y. Removal of Pavement

5.00

200.00

4.00

160.00

4.50

180.00

14 S.Y. Removal of Sidewalk

3.00

42.00

4.00

56.00

4.05

56.70

53 S.Y. Plain Concrete Pavement (7")

13.00

5,889.00

17.00

7,701.00

14.25

6,455.25

6 TON Deep Strength Asphalt (8")

23.00

138.00

40.00

240.00

45.00

270.00

8 TON Stone, #73 for Drives

10.00

80.00

10.00

80.00

10.00

80.00

40 S.Y. Pavement for Private Drives (6")

15.00

600.00

17.00

680.00

16.00

640.00

1 TON Hot Asphalt Concrete Surface "A-2"

25.00

25.00

40.00

40.00

50.00

50.00

2 TON Hot Asphalt Concrete Base "53B"

25.00

50.00

40.00

80.00

45.00

90.00

100 S.F. Concrete Sidewalk (4")

1.50

150.00

1.40

140.00

1.30

130.00

50 S.F. Concrete Sidewalk (7")

1.50

75.00

3.00

150.00

1.70

85.00

56 S.Y. Fine Grading

1.75

623.00

1.50

534.00

0.50

178.00

356 S.Y. Seeding (mulch & fertilizer)

1.00

356.00

1.50

534.00

1.00

356.00

1 Each Castings furnished & Adjusted to Type A grade

125.00

125.00

125.00

125.00

175.00

175.00

66 L.F. Corrugated Metal Pipe

10.00

660.00

8.90

587.40

10.00

660.00

Total

9,758.00

11,703.40

10,150.95

Engineering & Inspection

975.80

10,733.80

4.02%

over Engineer's Estimate

1-U 64-11-0 12/1/76
BARRETT LAW
SUBJECT TO COUNCILMANIC APPROVAL
PRELIMINARY MEETING _____
RATIFICATION _____

CONTRACT

This Agreement, made and entered into this 16 day of December, 1976

by and between _____

-----CONTINENTAL CONSTRUCTION COMPANY, INC.-----

hereinafter called "Contractor" and the City of Fort Wayne, Indiana, a municipal corporation, hereinafter called "City," under and by virtue of an act of the General Assembly of the State of Indiana, entitled "An Act Concerning Municipal Corporations," approved March 6, 1905, and all amendatory and supplementary acts thereto, WITNESSETH: That the Contractor covenants and agrees to improve

Resolution No. 5726-1976: Alley: between Emerson Avenue and Spring

Street from the East property line of Steup Avenue to the West property line

of Tyler Avenue.

by grading and paving the roadway to a width of ten (10) feet with 7" plain concrete.

upon a foundation and with curbing as fully set out in the specifications hereinafter referred to, in a good and workmanlike manner and to the entire satisfaction of said City, in accordance with Improvement Resolution No. 5726-1976 and at the following price per lineal foot

At the following prices:

Common Excavation	Five dollars and no cents per cubic yard	\$ 5.00
Removal of Pavement	Four dollars and fifty cents per square yard	4.50
Removal of Sidewalk	Four dollars and five cents per square yard	4.05
Plain Concrete Pavement, Depth (7) inch	Fourteen dollars and twenty-five cents per square yard	14.25
Deep Strength Asphalt, Depth (8) inch	Forty-five dollars and no cents per ton	45.00

upon a foundation and with curbing as fully set out in the specifications hereinafter referred to, in a good and workmanlike manner and to the entire satisfaction of said City, in accordance with Improvement Resolution No. 5726-1976 and at the following price per lineal foot.

At the following prices:

Common Excavation	Five dollars and no cents per cubic yard	\$ 5.00
Removal of Pavement	Four dollars and fifty cents per square yard	4.50
Removal of Sidewalk	Four dollars and five cents per square yard	4.05
Plain Concrete Pavement, Depth (7) inch	Fourteen dollars and twenty-five cents per square yard	14.25
Deep Strength Asphalt, Depth (8) inch	Forty-five dollars and no cents per ton	45.00
Stone, #73 for Drives	Ten dollars and no cents per ton	10.00
Cement Concrete Pavement for Private Drives Depth (6) inch	Sixteen dollars and no cents per square yard	16.00
Hot Asphalt Concrete Surface, "A-2"	Fifty dollars and no cents per ton	50.00
Hot Asphalt Concrete Base, "53B"	Forty-five dollars and no cents per ton	45.00
Concrete Sidewalk, Depth (4) inch	One dollar and thirty cents per square foot	1.30
Concrete Sidewalk Depth (7) inch	One dollar and seventy cents per square foot	1.70
Fine Grading	No dollars and fifty cents per square yard	0.50
Seeding, (including Mulch & Fertilizer)	One dollar and no cents per square yard	1.00
Castings furnished and adjusted to grade, Type (A)	One hundred and seventy-five dollars and no cents for each	175.00
Corrugated Metal Pipe	Ten dollars and no cents per lineal foot	10.00

The Contractor will furnish immediately a certificate from the Industrial Board of the State of Indiana, that he has complied with Sections 5, 68, 69 of the Workmen's Compensation Act, approved March 14, 1929, in accordance with Section 14 of the Compensation Act (Acts 1929, page 545, being Section 6459 of Burns Annotated Statutes, Volume IV). (Section 40-1214 Burns Annotated 1952 Revision-Volume VIII).

A copy of General Ordinance No. 6-60-66, concerning discriminating in employment under municipal contracts, is attached and incorporated herein by reference.

The Contractor hereby expressly agrees to perform all the work in the prosecution of the above described improvement according to the terms and conditions of Improvement Resolution No. the plans, profiles, specifications and the contractor's bid therefor on file in the office of the Department of Public Works of said City, which said resolution, profile, plans and specifications are made a part of this contract as fully and effectually as if copied herein at full length, (copies of which are attached hereto).

It is hereby agreed that no assignment of this contract shall be made without the written consent of the City; said Contractor hereby covenants and agrees that said improvement shall be finally and in all respects completed on or before May 30, 1977 and the Contractor agrees to pay and give to the City, as liquidated damages, the sum of \$25.00 for each and every day after said May 30, 1977 until said work is finally completed and ready for acceptance by the City. It being also understood that in event of any conflict between this contract and the specifications, that the former shall be considered to contain the intention of the parties hereto.

It is further agreed by and between said parties, that the acceptance of the work provided for in this contract, or the payment therefor, for the whole or a part, shall not constitute a waiver on the part of the City of any of the provisions of the contract, nor shall it release said Contractor, or the sureties upon its bond for the faithful performance thereof, nor shall the acceptance be even prima facie evidence of the performance of any provisions of such contract except to the extent of entitling said Contractor to receive the price therefor. It is further understood that the failure of the City to exercise its right of inspection or rejection of material and work, or the exercise of such right shall not in any sense be considered an acceptance of any part of said work or material.

The Contractor further contracts and agrees that in the prosecution of said work all proper skill and care will be exercised, that said party will properly and fully guard all excavations and dangerous places, and will use all due and proper precautions to prevent injury to any property, person and persons, what or whomsoever. That for and during the period of the making of such improvement, and the period for which the same is to be maintained and kept in repair by the Contractor, the City shall be saved harmless from any and all liability whatsoever growing out of any injury or damage to property or persons because of any neglect or fault of the said Contractor, its agents or employees, in the execution of this contract or any matter connected therewith or related thereto and to pay any judgment with costs which may be obtained against said City, growing out of any such injury or damage.

To each of the conditions and stipulations in this contract, the undersigned bind themselves, their successors and assigns.

IN WITNESS WHEREOF, we the foregoing named parties hereunto set our hands this.....

day of, 19.....

CONTINENTAL CONSTRUCTION COMPANY, INC.

BY: M. J. C. Neal

ITS: President

Contractor, Party of the First Part.

City of Fort Wayne, By and Through:

Edward U. P. Mar

James G. Goff

Frank E. Thompson

Its Board of Public Works and Mayor.

Sam L. P. Mar
Contractor

GUARANTY BOND

Know All Men by These Presents, That we _____

-----CONTINENTAL CONSTRUCTION COMPANY, INC.----- Contractors

as principal, and _____

-----AMERICAN STATES INSURANCE COMPANY OF INDIANAPOLIS, INDIANA----- as surety

are held and firmly bound to the City of Fort Wayne, Indiana, in the sum of TEN THOUSAND,
ONE HUNDRED AND FIFTY DOLLARS AND NINETY-FIVE CENTS -----

----- (\$ 10,150.95)
for the payment of which well and truly to be made we jointly and severally bind ourselves, our heirs,
executors, administrators and assigns firmly by these presents.

The conditions of the above obligation are, that whereas the said -----
----- CONTINENTAL CONSTRUCTION COMPANY, INC. -----

did on the _____ day of _____

_____, enter into a contract with the City of Fort Wayne to construct a
_____ Pavement

on Res. No. 5726-1976 the Alley ~~between~~ between Emerson Avenue and
Spring Street from the East property line of Steup Avenue to the West property
line of Tyler Avenue.-----

----- according to certain plans and specifications, and
for a period of three years
also warranting and guaranteeing the work/ material and condition of the pavement thereof as provided
in aforesaid contract and specifications. Now if the said -----
CONTINENTAL CONSTRUCTION COMPANY, INC. ----- shall faithfully perform and fulfill all the require-

ments of said warranty and guaranty, and make all repairs required under said guarantee, and in the
manner provided for, then this bond to be null and void, otherwise to be in full force and effect.

WITNESS our hands and seals this _____ day of _____

AMERICAN STATES INSURANCE COMPANY

CONTINENTAL CONSTRUCTION CO., INC. (SEAL)

Edward M. Brown
EDWARD M. BROWN - ATTORNEY-IN-FACT

BY: *T. J. O. Neal* (SEAL)

ITS: President (SEAL)

Approved this 16 day of December, 1976

Edw. J. LaMar
May G. Scott
Board of Public Works.

LIABILITY BOND

Know All Men by These Presents, That we _____

as principal, and _____

as surety, are held and firmly bound to the City of Fort Wayne, Indiana, in the sum of _____

for the payment of which well and truly to be made we jointly and severally bind ourselves, our heirs, executors, administrators and assigns firmly by these presents.

(\$ _____)

The conditions of the above obligation are such, that if the above named party of the first part shall

faithfully comply with the foregoing contract made and entered into the _____

day of _____, with the City of Fort Wayne, Indiana, and shall faithfully fulfill all the conditions and stipulations therein contained, except the warranty and guaranty of the pavement as to the workmanship, material and conditions for the period of three(3) years, according to the true intent and meaning thereof in all respects, then this obligation to be void, otherwise to be and remain in full force and virtue in law and in the event the said City shall extend the time for the completion of said work, such extension shall not in any way release the sureties on this bond.

WITNESS our hands and seals this _____ day of _____

AMERICAN STATES INSURANCE COMPANY

Edward M. Brown
EDWARD M. BROWN - ATTORNEY-IN-FACT

Continental Trust Co. Inc. (SEAL)

W. J. O'Neil (SEAL)

President (SEAL)

(SEAL)

Approved this 16 day of December, 1926

Edward H. Saffman

May G. Scott

Board of Public Works.

AMERICAN STATES INSURANCE COMPANY

INDIANAPOLIS, INDIANA

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS:

That CONTINENTAL CONSTRUCTION COMPANY, INC.
as Principal, hereinafter called Principal, and AMERICAN STATES INSURANCE COMPANY, a corporation of the state
of Indiana, with its home office in the City of Indianapolis, Indiana, U.S.A., as Surety, hereinafter called Surety, are
held and firmly bound unto CITY OF FORT WAYNE, INDIANA

as Obligor, hereinafter called Obligor, in the amount of TEN THOUSAND ONE HUNDRED AND FIFTY
DOLLARS AND 95/100 ----- Dollars (\$10,150.95.....),
for the payment whereof Principal and Surety bind themselves, their heirs, executors, administrators, successors
and assigns, jointly and severally, firmly by these presents.

WHEREAS, Principal has by written agreement dated ----- entered into
a contract with Obligor for RESOLUTION NO. 5726-1976, EMERSON AND SPRING STREET

which contract is by reference made a part hereof, and is hereinafter referred to as the contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, That, if Principal shall
promptly and faithfully perform said contract, then this obligation shall be null and void; otherwise it shall
remain in full force and effect.

Whenever Principal shall be, and be declared by Obligor to be in default under the contract, the Obligor
having performed Obligor's obligations thereunder:

- (1) Surety may promptly remedy the default subject to the provisions of paragraph 3 herein, or;
- (2) Obligor after reasonable notice to Surety may, or Surety upon demand of Obligor may arrange for the
performance of Principal's obligation under the contract subject to the provisions of paragraph 3 herein;
- (3) The balance of the contract price, as defined below, shall be credited against the reasonable cost of
completing performance of the contract. If completed by the Obligor, and the reasonable cost exceeds
the balance of the contract price, the Surety shall pay to the Obligor such excess, but in no event shall the
aggregate liability of the Surety exceed the amount of this bond. If the Surety arranges completion or
remedies the default, that portion of the balance of the contract price as may be required to complete the
contract or remedy the default and to reimburse the Surety for its outlays shall be paid to the Surety at
the times and in the manner as said sums would have been payable to Principal had there been no default
under the contract. The term "balance of the contract price," as used in this paragraph, shall mean the
total amount payable by Obligor to Principal under the contract and any amendments thereto, less the
amounts heretofore properly paid by Obligor under the contract.

Any suit under this bond must be instituted before the expiration of two years from date on which final
payment under the contract falls due.

No right of action shall accrue on this bond to or for the use of any person or corporation other than the
Obligor named herein or the heirs, executors, administrators or successors of the Obligor.

Signed and sealed this ----- day of ----- 19-----

CONTINENTAL CONSTRUCTION COMPANY, INC.

N. J. Neal President (SEAL)
Principal

AMERICAN STATES INSURANCE COMPANY
Surety

By Edward M. Brown
EDWARD M. BROWN Attorney-in-Fact

American States Insurance Company

INDIANAPOLIS, INDIANA

KNOW ALL MEN BY THESE PRESENTS, that American States Insurance Company, a Corporation duly organized and existing under the laws of the State of Indiana, and having its principal office in the City of Indianapolis, Indiana, hath made, constituted

and appointed, and does by these presents make, constitute and appoint _____

-----PAUL A. LOHSE, EDWARD M. BROWN, THEODORE KORTZ and HAYES L. POTTER-----

(Jointly or Severally)

of Fort Wayne and State of Indiana
its true and lawful Attorney(s)-in-Fact, with full power and authority hereby conferred in its name, place and stead, to execute, acknowledge and deliver any and all bonds, recognizances, contracts of indemnity and other conditional or obligatory undertakings,

provided, however, that the penal sum of any one such instrument executed hereunder

shall not exceed ONE MILLION AND NO/100 (\$1,000,000.00) DOLLARS -----

and to bind the Corporation thereby as fully and to the same extent as if such bonds were signed by the President, sealed with the common seal of the Corporation and duly attested by its Secretary, hereby ratifying and confirming all that the said Attorney(s)-in-Fact may do in the premises. This Power of Attorney is executed and may be revoked pursuant to and by authority granted by Section 7.07 of the By-Laws of the American States Insurance Company, which reads as follows:

"The Chairman of the Board, the President or any Vice-President shall have power, by and with the concurrence with the Secretary or any Assistant Secretary of the Corporation, to appoint Resident Vice-Presidents, Resident Assistant Secretaries and Attorneys-in-Fact as the business of the Corporation may require or to authorize any one of such persons to execute, on behalf of the Corporation, any bonds, recognizances, stipulations and undertakings, whether by way of surety or otherwise"

IN WITNESS WHEREOF, American States Insurance Company has caused these presents to be signed by its Vice-President,

attested by its Assistant Secretary and its corporate seal to be hereto affixed this 30th day of May

A. D. 19 75

AMERICAN STATES INSURANCE COMPANY

(SEAL)

By William M. Evans
Second Vice-President

ATTEST: Stanley L. Riegel
Assistant Secretary

STATE OF INDIANA }
COUNTY OF MARION } SS:

On this 30th day of May, A. D. 1975, before me personally came

William M. Evans, to me known, who

being by me duly sworn, acknowledged the execution of the above instrument and did depose and say; that he is Vice-President of American States Insurance Company; that he knows the seal of said Corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said Corporation; and that he signed his name

thereto by like order. And said William M. Evans further said that he is acquainted with Stanley L. Riegel and knows him to be the Assistant Secretary of said Corporation; and that he executed the above instrument.

January 10, 1977

My Commission Expires

Debra Kay Driscoll

Notary Public

STATE OF INDIANA }
COUNTY OF MARION } SS:

I, Stanley L. Riegel, the Assistant Secretary of AMERICAN STATES INSURANCE COMPANY, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney, executed by said AMERICAN STATES INSURANCE COMPANY, which is still in full force and effect.

This Certificate may be signed and sealed by facsimile under and by the authority of the following resolution of the Board of Directors of American States Insurance Company at a meeting duly called and held on the 15th day of December 1972.

"RESOLVED: That the use of a printed facsimile of the corporate seal of the company and of the signature of an Assistant Secretary on any certification of the correctness of a copy of an instrument executed by the President or a Vice-President pursuant to Section 7.07 of the By-Laws appointing and authorizing an Attorney-in-Fact to sign in the name and on behalf of the company surety bonds, underwriting undertakings or other instruments described in said Section 7.07, with like effect as if such seal and such signature had been manually affixed and made, hereby is authorized and approved."

In witness whereof, I have hereunto set my hand and affixed the seal of said Corporation, this _____

day of _____, A. D. 19____

(SEAL)

Form 9-1459 (12-72)

Stanley L. Riegel
Assistant Secretary

CONTINENTAL CONSTRUCTION COMPANY, INC.

TITLE OF ORDINANCE SPECIAL ORDINANCE-Contract of Continental Const. on Resolution 5726-1976DEPARTMENT REQUESTING ORDINANCE BOARD OF PUBLIC WORKS8-77-01-20SYNOPSIS OF ORDINANCE Contract with Continental Construction Company, Inc. in amountof \$10,150.95 provides for construction of an alley between Emerson Avenue and
Spring Street from Steup Avenue to Tyler Avenue.This was the low of two bids received.This is a Barrett Law improvement on which the property owners will be paying
75% of the total cost.EFFECT OF PASSAGE Alley improvement as petitioned by property ownersEFFECT OF NON-PASSAGE Failure of City to participate in amount of 25% of total
construction cost.MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS) City share of construction
cost - 25% or \$2,537.74ASSIGNED TO COMMITTEE Moses Public Works